
HOUSE BILL No. 1819

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8-7-16; IC 3-11-2-13; IC 3-12-5-1; IC 3-13-4-2; IC 6-1.1; IC 6-4.1; IC 6-6-1.1; IC 6-8.1; IC 33-2.1-4-6; IC 33-3-5; IC 33-4-3; IC 33-5-2; IC 33-19-5.

Synopsis: Indiana tax court. Transfers review of determinations of the state board of tax commissioners from the tax court to the court of appeals on July 1, 2001. Eliminates the tax court on December 31, 2008. Transfers review of determinations of the department of state revenue from the tax court to a circuit court on January 1, 2009.

Effective: July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1819

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-8-7-16 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) The election division shall
3 certify the following to each county election board not later than noon
4 August 20 (or noon sixty (60) days before the general election) for
5 nominees for United States President and Vice President) before an
6 election:
7 (1) The name and place of residence of each person nominated for
8 election to:
9 (A) an office for which the electorate of the whole state may
10 vote;
11 (B) the United States House of Representatives;
12 (C) a legislative office; or
13 (D) a local office for which a declaration of candidacy must be
14 filed with the election division under IC 3-8-2.
15 (2) The name of each:
16 (A) justice of the supreme court;
17 (B) judge of the court of appeals; and



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(C) judge of the tax court;
 who is subject to a retention vote by the electorate and who has
 filed a statement under IC 33-2.1-2-6 indicating that the justice or
 judge wishes to have the question of the justice's or judge's
 retention placed on the ballot.

**However, subdivision (2)(C) does not apply to an election after
 December 31, 2006.**

(b) Subject to compliance with section 11 of this chapter, the
 election division shall designate the device under which the list of
 candidates of each political party will be printed and the order in which
 the political party ticket will be arranged under IC 3-10-4-2 and
 IC 3-11-2-6.

SECTION 2. IC 3-11-2-13, AS AMENDED BY P.L.83-1999,
 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2001]: Sec. 13. (a) The following offices and public questions
 shall be placed on the general election ballot in the following order
 after the offices described in section 12.9 of this chapter:

- (1) Retention of a justice of the supreme court.
- (2) Retention of a judge of the court of appeals.
- (3) Retention of the judge of the tax court.
- (4) Ratification of a state constitutional amendment.

**However, subdivision (3) does not apply to an election after
 December 31, 2006.**

(b) Whenever more than one (1) justice of the supreme court is
 subject to retention, the name of each justice must appear on the ballot
 in alphabetical order. However, if the justice serving as chief justice is
 subject to retention, the chief justice's name must appear first.

(c) Whenever more than one (1) judge of the court of appeals is
 subject to retention, the name of each judge must appear on the ballot
 in alphabetical order. However, if the judge serving as chief judge is
 subject to retention, the chief judge's name must appear first.

(d) These offices and public questions shall be placed in a separate
 column on the ballot or ballot label if voting is by paper ballot, ballot
 card voting system, or electronic voting system or in a separate column
 of ballot labels if voting is by voting machine.

SECTION 3. IC 3-12-5-1 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Whenever a candidate is
 elected to a local office that is commissioned by the governor under
 IC 4-3-1-5, the circuit court clerk shall prepare a statement under the
 clerk's seal specifying the number of votes received by each candidate
 for that office.

(b) The statement prepared under subsection (a) must also include

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the number of votes cast for and against the following:

- (1) The ratification of a state constitutional amendment submitted to the electorate.
- (2) The retention of a justice of the supreme court or a judge of the court of appeals. ~~or~~
- (3) The retention of a judge of the tax court.**
- ~~(3)~~ **(4)** Each candidate who was declared elected by the county election board under IC 3-12-4-9.

However, subdivision (3) does not apply to an election after December 31, 2006.

(c) The clerk shall send or hand deliver the statement to the election division not later than noon on the Monday following election day.

(d) The election division shall tabulate the votes received under this section. Not later than the second Friday after the election, the secretary of state shall issue a certificate certifying the following:

- (1) Each state constitutional amendment ratified or rejected.
- (2) Each justice or judge retained or removed.

(e) The election division shall provide a copy of a certificate described by:

- (1) subsection (d)(1) to the chief justice of the Indiana supreme court and the director of the office of code revision of the legislative services agency; and
- (2) subsection (d)(2) to the chief justice of the state.

SECTION 4. IC 3-13-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. **Subject to IC 33-3-5-6**, a vacancy in the office of justice of the supreme court, judge of the court of appeals, or judge of the tax court shall be filled as provided in IC 33-2.1-4.

SECTION 5. IC 6-1.1-8-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 30. If a public utility company files its objections to the state board of tax commissioners' tentative assessment of the company's distributable property in the manner prescribed in section 28 of this chapter, the company may appeal the board's final assessment of that property to the ~~tax~~ **court of appeals**. However, the company must initiate the appeal within twenty (20) days after the date of the notice of the board's final assessment.

SECTION 6. IC 6-1.1-8-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 31. When a public utility company initiates an appeal under section 30 of this chapter, the ~~tax court of appeals~~ shall:

- ~~(1) try the case without a jury;~~
- ~~(2) give preference to the case to insure a prompt trial;~~

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- (3) (1) review the state board of tax commissioners' final assessment of the company's distributable property; **and**
 (4) (2) presume the findings of the state board of tax commissioners are correct. **and**
 (5) order the state board of tax commissioners to file certified copies of the board's records related to the assessment if the company asks the court to issue such an order.

SECTION 7. IC 6-1.1-8-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 32. When a public utility company initiates an appeal under section 30 of this chapter, the ~~tax court of appeals~~ may set aside the state board of tax commissioners' final assessment and refer the matter to the board with instructions to make another assessment if:

- (1) the company shows that the board's final assessment, or the board's apportionment and distribution of the final assessment, is clearly incorrect because the board violated the law or committed fraud; or
 (2) the company shows that the board's final assessment is not supported by substantial evidence.

SECTION 8. IC 6-1.1-8-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 36. (a) A public utility company shall pay any taxes which are based upon the state board of tax commissioners' assessment of distributable property regardless of whether or not an appeal of the assessment is pending. However, the collection of the taxes may be enjoined pending an ~~original tax~~ appeal under ~~IC 33-3-5~~. **IC 6-1.1-36-17.**

(b) The state board of tax commissioners shall reassess distributable property and shall certify the reassessment to the county auditor of each county in which the property is taxable if:

- (1) a court **of appeals** sets aside the board's original assessment; **and orders the board to reassess the distributable property;** and
 (2) the decision of that court is not appealed to a higher court.

SECTION 9. IC 6-1.1-12.1-5.5, AS AMENDED BY P.L.4-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.5. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction application on forms prescribed by the state board of tax commissioners with:

- (1) the auditor of the county in which the new manufacturing equipment or new research and development equipment, or both, is located; and
 (2) the state board of tax commissioners.

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1 A person that timely files a personal property return under
 2 IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment
 3 or new research and development equipment, or both, is installed must
 4 file the application between March 1 and May 15 of that year. A person
 5 that obtains a filing extension under IC 6-1.1-3-7(b) for the year in
 6 which the new manufacturing equipment or new research and
 7 development equipment, or both, is installed must file the application
 8 between March 1 and June 14 of that year.

9 (b) The deduction application required by this section must contain
 10 the following information:

11 (1) The name of the owner of the new manufacturing equipment
 12 or new research and development equipment, or both.

13 (2) A description of the new manufacturing equipment or new
 14 research and development equipment, or both.

15 (3) Proof of the date the new manufacturing equipment or new
 16 research and development equipment, or both, was installed.

17 (4) The amount of the deduction claimed for the first year of the
 18 deduction.

19 (c) This subsection applies to a deduction application with respect
 20 to new manufacturing equipment or new research and development
 21 equipment, or both, for which a statement of benefits was initially
 22 approved after April 30, 1991. If a determination about the number of
 23 years the deduction is allowed has not been made in the resolution
 24 adopted under section 2.5 of this chapter, the county auditor shall send
 25 a copy of the deduction application to the designating body and the
 26 designating body shall adopt a resolution under section 4.5(h)(2) of this
 27 chapter.

28 (d) A deduction application must be filed under this section in the
 29 year in which the new manufacturing equipment or new research and
 30 development equipment, or both, is installed and in each of the
 31 immediately succeeding years the deduction is allowed.

32 (e) The state board of tax commissioners shall review and verify the
 33 correctness of each deduction application and shall notify the county
 34 auditor of the county in which the property is located that the deduction
 35 application is approved or denied or that the amount of the deduction
 36 is altered. Upon notification of approval of the deduction application
 37 or of alteration of the amount of the deduction, the county auditor shall
 38 make the deduction. The county auditor shall notify the county property
 39 tax assessment board of appeals of all deductions approved under this
 40 section.

41 (f) If the ownership of new manufacturing equipment or new
 42 research and development equipment, or both, changes, the deduction

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provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

- (1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and
- (2) files the deduction applications required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) If a person desires to initiate an appeal of the state board of tax commissioners' final determination, the person must do all of the following not more than forty-five (45) days after the state board of tax commissioners gives the person notice of the final determination:

- (1) File a written notice with the state board of tax commissioners informing the board of the person's intention to appeal.
- (2) File **a complaint an appeal** in the **tax court of appeals**.
- (3) Serve the attorney general and the county auditor with a copy of the **complaint: appeal**.

SECTION 10. IC 6-1.1-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) Within fifteen (15) days after the division of appeals of the state board of tax commissioners gives notice of its final determination under section 4 of this chapter to the party or the maximum allowable time for the issuance of a determination by the division of appeals under section 4 of this chapter expires, a party to the proceeding may request a rehearing before the board. The board may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as are required by section 4 of this chapter. The state board of tax commissioners has thirty (30) days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing within thirty (30) days after receiving the petition shall be treated as a final determination to deny the petition. A petition for a rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the state board of tax commissioners determines to rehear a final determination of the division of appeals, the state board of tax commissioners:

- (1) may conduct the additional hearings that the state board of tax commissioners determines necessary or review the written record of the division of appeals without additional hearings; and
- (2) shall issue a final determination within ninety (90) days after notifying the parties that the state board of tax commissioners will

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rehear the determination.

Failure of the state board of tax commissioners to make a determination within the time allowed under subdivision (2) shall be treated as a final determination affirming the decision of the division of appeals.

(b) A person may appeal the final determination of the division of appeals or the state board of tax commissioners regarding the assessment of that person's tangible property. The appeal shall be taken to the ~~tax~~ court of appeals. Appeals may be consolidated at the request of the appellants if it can be done in the interest of justice.

(c) If a person desires to initiate an appeal of the state board of tax commissioners' final determination, the person shall:

(1) file a written notice with the state board of tax commissioners informing the board of his intention to appeal;

(2) file a ~~complaint~~ **an appeal** in the ~~tax~~ court of appeals; and

(3) serve the attorney general and the county assessor with a copy of the ~~complaint~~ **appeal**.

(d) To initiate an appeal under this section, a person must take the action required by subsection (c) within:

(1) forty-five (45) days after the state board of tax commissioners gives the person notice of its final determination under IC 6-1.1-14-11 unless a rehearing is conducted under subsection (a);

(2) thirty (30) days after the board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the state board of tax commissioners to make a determination under this section; or

(3) forty-five (45) days after the division of appeals gives notice of a final determination under section 4 of this chapter or the division fails to make a determination within the maximum time allowed under section 4 of this chapter, if a rehearing is not granted under this section.

(e) The failure of the state board of tax commissioners to conduct a hearing within the time period prescribed in section 4(b) of this chapter does not constitute notice to the person of a board determination.

(f) In a case in which the final determination of the state board of tax commissioners would result in a claim by a taxpayer with respect to a particular year for a refund that exceeds:

(1) eight hundred thousand dollars (\$800,000); or

(2) an amount equal to ten percent (10%) of the aggregate tax levies of all taxing units in the county for that year;

whichever is less, the county executive may take an appeal to the ~~tax~~

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1 court **of appeals** in the manner prescribed in this section, but only upon
 2 request by the county assessor.

3 SECTION 11. IC 6-1.1-15-8 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) If a final
 5 determination by the state board of tax commissioners regarding the
 6 assessment of any tangible property is vacated, set aside, or adjudged
 7 null and void under the finding, decision, or judgment of the ~~Indiana~~
 8 ~~tax court of appeals~~, the matter of the assessment of the property shall
 9 be remanded to the state board of tax commissioners for reassessment
 10 and further proceedings as specified in the decision of the ~~tax court of~~
 11 ~~appeals~~. Upon remand the state board of tax commissioners may take
 12 action only on those issues specified in the decision of the ~~tax court of~~
 13 ~~appeals~~.

14 (b) The state board of tax commissioners shall take action on a case
 15 remanded to it by the ~~tax court of appeals~~ not later than ninety (90)
 16 days after the date the decision of the ~~tax court of appeals~~ is rendered,
 17 unless an appeal is ~~filed with~~ **transferred to** the supreme court. ~~as~~
 18 ~~provided in IC 33-3-5-15~~. The state board of tax commissioners may
 19 petition the ~~tax court of appeals~~ at any time for an extension of the
 20 ninety (90) day period. An extension shall be granted upon a showing
 21 of reasonable cause.

22 (c) The taxpayer in a case remanded under subsection (a) may
 23 petition the ~~tax court of appeals~~ for an order requiring the state board
 24 of tax commissioners to show cause why action has not been taken
 25 pursuant to the ~~tax court's~~ decision if:

- 26 (1) at least ninety (90) days have elapsed since the ~~tax court's~~
 27 decision was rendered;
- 28 (2) the state board of tax commissioners has not taken action on
 29 the issues specified in the ~~tax court's~~ decision; and
- 30 (3) ~~an appeal a transfer~~ of the ~~tax court's~~ decision has not been
 31 ~~filed~~ **granted**.

32 (d) If a case remanded under subsection (a) is ~~appealed~~ **transferred**
 33 to the supreme court, ~~as provided in IC 33-3-5-15~~, the ninety (90) day
 34 period provided in subsection (b) is tolled until the supreme court
 35 concludes ~~the appeal~~ **consideration of the case**.

36 SECTION 12. IC 6-1.1-15-10 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) If a petition for
 38 review to any board or an appeal to the ~~tax court of appeals~~ regarding
 39 an assessment or increase in assessment is pending, the taxes resulting
 40 from the assessment or increase in assessment are, notwithstanding the
 41 provisions of IC 6-1.1-22-9, not due until after the petition for review,
 42 or the appeal, is finally adjudicated and the assessment or increase in



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assessment is finally determined. However, even though a petition for review or an appeal is pending, the taxpayer shall pay taxes on the tangible property when the property tax installments come due, unless the collection of the taxes is enjoined pending an ~~original tax~~ appeal under ~~IC 33-3-5~~. **IC 6-1.1-36-17**. The amount of taxes which the taxpayer is required to pay, pending the final determination of the assessment or increase in assessment, shall be based on:

(1) the assessed value reported by the taxpayer on his personal property return if a personal property assessment, or an increase in such an assessment, is involved; or

(2) an amount based on the immediately preceding year's assessment of real property if an assessment, or increase in assessment, of real property is involved.

(b) If the petition for review or the appeal is not finally determined by the last installment date for the taxes, the taxpayer, upon showing of cause by a taxing official or at the ~~tax court's~~ **discretion of the court of appeals**, may be required to post a bond or provide other security in an amount not to exceed the taxes resulting from the contested assessment or increase in assessment.

(c) Each county auditor shall keep separate on the tax duplicate a record of that portion of the assessed value of property on which a taxpayer is not required to pay taxes under subsection (a). When establishing rates and calculating state school support, the state board of tax commissioners shall recognize the fact that a taxpayer is not required to pay taxes under certain circumstances.

SECTION 13. IC 6-1.1-15-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) Subject to the limitations contained in subsections (c) and (d), a county auditor shall correct errors which are discovered in the tax duplicate for any one (1) or more of the following reasons:

(1) The description of the real property was in error.

(2) The assessment was against the wrong person.

(3) Taxes on the same property were charged more than one (1) time in the same year.

(4) There was a mathematical error in computing the taxes or penalties on the taxes.

(5) There was an error in carrying delinquent taxes forward from one (1) tax duplicate to another.

(6) The taxes, as a matter of law, were illegal.

(7) There was a mathematical error in computing an assessment.

(8) Through an error of omission by any state or county officer the taxpayer was not given credit for an exemption or deduction

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permitted by law.

(b) The county auditor shall correct an error described under subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) when he finds that the error exists.

(c) If the tax is based on an assessment made or determined by the state board of tax commissioners, the county auditor shall not correct an error described under subsection (a)(6), (a)(7), or (a)(8) until after the correction is either approved by the state board. ~~or ordered by the tax court.~~

(d) If the tax is not based on an assessment made or determined by the state board of tax commissioners, the county auditor shall correct an error described under subsection (a)(6), (a)(7), or (a)(8) only if the correction is first approved by at least two (2) of the following officials:

(1) The township assessor.

(2) The county auditor.

(3) The county assessor.

If two (2) of these officials do not approve such a correction, the county auditor shall refer the matter to the county property tax assessment board of appeals for determination. The county property tax assessment board of appeals shall provide a copy of the determination to the taxpayer and to the county auditor.

(e) A taxpayer may appeal a determination of the county property tax assessment board of appeals to the division of appeals of the state board of tax commissioners for a final administrative determination. An appeal under this section shall be conducted in the same manner as appeals under sections 4 through 8 of this chapter. The state board of tax commissioners shall send the final administrative determination to the taxpayer, the county auditor, the county assessor, and the township assessor.

(f) If a correction or change is made in the tax duplicate after it is delivered to the county treasurer, the county auditor shall transmit a certificate of correction to the county treasurer. The county treasurer shall keep the certificate as the voucher for settlement with the county auditor.

SECTION 14. IC 6-1.1-15-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. A class action suit against the state board of tax commissioners may not be maintained in any court ~~including the Indiana tax court~~, on behalf of a person who has not complied with the requirements of this chapter or IC 6-1.1-26 before the certification of the class.

SECTION 15. IC 6-1.1-20.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The county

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auditor shall determine the eligibility of each applicant under this chapter and shall notify the applicant and the state board of tax commissioners of the determination before August 15 of the year in which the application is made. This notice must contain a statement that:

- (1) the applicant is entitled to appeal a denial of eligibility; and
- (2) the state board of tax commissioners may, upon its own initiative, review the application and deny the credit.

(b) If the county auditor determines that an applicant is not eligible, the applicant may appeal for a review of the application by the state board of tax commissioners. An appeal is perfected by the filing of a written request for review with the state board of tax commissioners no later than thirty (30) days after the date on the county auditor's notice.

The request must:

- (1) state the name of the applicant;
- (2) identify the application; and
- (3) state the reasons the applicant believes that the county auditor's decision is incorrect.

(c) The state board of tax commissioners shall review the application of any applicant who files an appeal under subsection (b). The state board of tax commissioners may review any application and if it finds that the applicant has been denied but is eligible or that the applicant is not eligible, the board shall notify the applicant and the county auditor of the board's decision to allow or disallow the credit.

(d) If a person desires to initiate an appeal of the state board of tax commissioners' final determination under this section, the person must do all of the following not more than forty-five (45) days after the state board of tax commissioners gives the person notice of the final determination:

- (1) File a written notice with the state board of tax commissioners informing the board of the person's intention to appeal.
- (2) File ~~a complaint~~ **an appeal** in the ~~tax~~ **court of appeals**.
- (3) Serve the attorney general and the county auditor with a copy of the ~~complaint~~ **appeal**.

SECTION 16. IC 6-1.1-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The county auditor shall forward a claim for refund filed under section 1 of this chapter to the state board of tax commissioners for review by the board if:

- (1) the claim is for the refund of taxes paid on an assessment made or determined by the state board of tax commissioners; and
- (2) the claim is based upon the grounds specified in

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IC 6-1.1-26-1(4)(ii) or IC 6-1.1-26-1(4)(iii).

(b) The state board of tax commissioners shall review each refund claim forwarded to it under this section. The board shall certify its approval or disapproval on the claim and shall return the claim to the county auditor.

(c) Before the state board of tax commissioners disapproves a refund claim which is forwarded to it under this section, the board shall notify the claimant of its intention to disapprove the claim and of the time and place fixed for a hearing on the claim. The board shall hold the hearing within thirty (30) days after the date of the notice. The board shall conduct the hearing in the same manner that assessment appeal hearings are conducted. The claimant has a right to be heard at the hearing.

(d) If a person desires to initiate an appeal of the state board of tax commissioners' final determination under this section, the person must do all of the following not more than forty-five (45) days after the state board of tax commissioners gives the person notice of the final determination:

(1) File a written notice with the state board of tax commissioners informing the board of the person's intention to appeal.

(2) File ~~a complaint~~ **an appeal** in the ~~tax~~ **court of appeals**.

(3) Serve the attorney general and the county auditor with a copy of the ~~complaint~~ **appeal**.

SECTION 17. IC 6-1.1-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A refund claim which is filed under section 1 of this chapter and which is not subject to review by the state board of tax commissioners under section 2 of this chapter shall be either approved or disapproved by the county auditor, the county treasurer, and the county assessor.

(b) If the claim for refund is disapproved by either the county auditor, the county treasurer, or the county assessor, the claimant may appeal that decision to the state board of tax commissioners. The claimant must initiate the appeal and the state board shall hear the appeal in the same manner that assessment appeals are initiated and heard.

(c) If a person desires to initiate an appeal of the state board of tax commissioners' final determination under this section, the person must do all of the following not more than forty-five (45) days after the state board of tax commissioners gives the person notice of the final determination:

(1) File a written notice with the state board of tax commissioners informing the board of the person's intention to appeal.

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1 (2) File ~~a complaint~~ **an appeal** in the ~~tax~~ court of appeals.

2 (3) Serve the attorney general and the county auditor with a copy
3 of the ~~complaint~~ **appeal**.

4 SECTION 18. IC 6-1.1-26-4 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) A county auditor
6 shall submit a refund claim filed under section 1 of this chapter to the
7 county board of commissioners for final review after the appropriate
8 county officials either approve or disapprove the claim and, if the claim
9 is disapproved, an appeal to the state board of tax commissioners is not
10 initiated under section 3 of this chapter.

11 (b) The county board of commissioners shall disallow a refund
12 claim if it was disapproved by one (1) of the appropriate county
13 officials and an appeal to the state board of tax commissioners was not
14 initiated under section 3 of this chapter.

15 (c) Except as provided in subsection (b) of this section, the county
16 board of commissioners may either allow or disallow a refund claim
17 which is submitted to it for final review. If the county board disallows
18 a claim, the claimant may appeal that decision to the state board of tax
19 commissioners.

20 (d) The state board of tax commissioners shall hear an appeal under
21 subsection (c) in the same manner that assessment appeals are initiated
22 and heard.

23 (e) If a person desires to initiate an appeal of the state board of tax
24 commissioners' final determination under this section, the person must
25 do all of the following not more than forty-five (45) days after the state
26 board of tax commissioners gives the person notice of the final
27 determination:

28 (1) File a written notice with the state board of tax commissioners
29 informing the board of the person's intention to appeal.

30 (2) File ~~a complaint~~ **an appeal** in the ~~tax~~ court of appeals.

31 (3) Serve the attorney general and the county auditor with a copy
32 of the ~~complaint~~ **appeal**.

33 SECTION 19. IC 6-1.1-26-5 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) When a claim for
35 refund filed under section 1 of this chapter is allowed either by the
36 county board of commissioners ~~or~~ the state board of tax commissioners
37 ~~or the Indiana tax court on appeal~~, the claimant is entitled to a refund.
38 The amount of the refund shall equal the amount of the claim so
39 allowed plus interest at six percent (6%) from the date on which the
40 taxes were paid or payable, whichever is later, to the date of the refund.
41 The county auditor shall, without an appropriation being required, issue
42 a warrant to the claimant payable from the county general fund for the

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amount due the claimant under this section.

(b) In the June or December settlement and apportionment of taxes, or both the June and December settlement and apportionment of taxes, immediately following a refund made under this section the county auditor shall deduct the amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid and shall pay the amount so deducted into the general fund of the county. However, the county auditor shall make the deductions and payments required by this subsection not later than the December settlement and apportionment.

SECTION 20. IC 6-1.1-36-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 17. (a) A taxpayer who wishes to enjoin the collection of a tax imposed under this article pending an appeal must file a petition with the court of appeals to enjoin the collection of the tax. The petition must set forth a summary of:**

- (1) the issues that the petitioner will raise in the appeal; and**
- (2) the equitable considerations for which the court of appeals should order the collection of the tax to be enjoined.**

(b) After a hearing on the petition filed under subsection (a), the court of appeals may enjoin the collection of the tax pending the appeal, if the court of appeals finds that:

- (1) the issues raised by the appeal are substantial;**
- (2) the petitioner has a reasonable opportunity to prevail in the appeal; and**
- (3) the equitable considerations favoring the enjoining of the collection of the tax outweigh the interests of the affected governmental entities in collecting the tax pending the appeal.**

SECTION 21. IC 6-1.1-37-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 9. (a) This section applies when:**

- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;**
- (2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or (a)(2) while a petition for review or an appeal has been pending is less than the assessment that results from the final determination of the petition for review or appeal; or**
- (3) the collection of certain ad valorem property taxes has been enjoined under ~~IC 33-3-5-11~~, IC 6-1.1-36-17, and under the final determination of the appeal the taxpayer is liable for at least part**

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1 of those taxes.

2 (b) Except as provided in subsection (f), a taxpayer shall pay interest
3 on the taxes the taxpayer is required to pay as a result of an action or
4 determination described in subsection (a) at the rate of ten percent
5 (10%) per year from the original due date or dates for those taxes to:

6 (1) the date of payment; or

7 (2) the date on which penalties for the late payment of a tax
8 installment may be charged under subsection (d) or (e);

9 whichever occurs first.

10 (c) With respect to an action or determination described in
11 subsection (a), the taxpayer shall pay the taxes resulting from that
12 action or determination and the interest prescribed under subsection (b)
13 on or before:

14 (1) the next May 10; or

15 (2) the next November 10;

16 whichever occurs first.

17 (d) A taxpayer shall begin paying the penalty prescribed in section
18 10 of this chapter on the day after the date for payment prescribed in
19 subsection (c) if:

20 (1) he has not paid the amount of taxes resulting from the action
21 or determination; and

22 (2) he either:

23 (A) received notice of the taxes he is required to pay as a result
24 of the action or determination at least thirty (30) days before
25 the date for payment; or

26 (B) voluntarily signed and filed an assessment return for the
27 taxes.

28 (e) If subsection (d) does not apply, a taxpayer who has not paid the
29 amount of taxes resulting from the action or determination shall begin
30 paying the penalty prescribed in section 10 of this chapter on:

31 (1) the next May 10 which follows the date for payment
32 prescribed in subsection (c); or

33 (2) the next November 10 which follows the date for payment
34 prescribed in subsection (c);

35 whichever occurs first.

36 (f) A taxpayer is not subject to the payment of interest on real
37 property assessments under subsection (b) if:

38 (1) an assessment is made or increased after the date or dates on
39 which the taxes for the year for which the assessment is made
40 were due;

41 (2) the assessment or the assessment increase is made as the result
42 of error or neglect by the assessor or by any other official

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involved with the assessment of property or the collection of property taxes; and

(3) the assessment:

(A) would have been made on the normal assessment date if the error or neglect had not occurred; or

(B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.

SECTION 22. IC 6-4.1-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. A probate court's redetermination of inheritance tax under this chapter may be appealed **before January 1, 2009, to the tax court and after December 31, 2008, to the court of appeals** in accordance with the rules of appellate procedure.

SECTION 23. IC 6-4.1-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. When an appeal is initiated under section 4 of this chapter, the probate court shall determine the amount of any tax refund due. Either party may appeal the probate court's decision **before January 1, 2009, to the tax court and after December 31, 2008, to the court of appeals** in accordance with the rules of appellate procedure.

SECTION 24. IC 6-4.1-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. A probate court's final determination concerning the amount of Indiana estate tax owing under this chapter may be appealed **before January 1, 2009, to the tax court and after December 31, 2008, to the court of appeals** in accordance with the rules of appellate procedure.

SECTION 25. IC 6-6-1.1-1205 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1205. All criminal **and, after December 31, 2008, all civil** proceedings arising under this chapter have precedence in court over all other cases, excepting cases in which the state or public is a moving party.

SECTION 26. IC 6-6-1.1-1206 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1206. A person who claims that any gasoline tax, penalty, or interest was erroneously or illegally collected, or that a refund was wrongfully denied may initiate a suit against the state. **Before January 1, 2009, the tax court and after December 31, 2008, the Marion circuit court** has original jurisdiction of the suit, which must be commenced within three (3) years from:

(1) the date of payment of the tax, penalty, or interest; or

(2) the date of final rejection by the administrator of a refund

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SECTION 27. IC 6-8.1-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 17. (a) Before an original tax appeal is filed **before January 1, 2009**, with the tax court under IC 33-3-5 **and after December 31, 2008, an appeal concerning a listed tax or tax imposed under IC 6-4.1 is filed with a circuit court or the court of appeal**, the commissioner may settle any tax liability dispute if a substantial doubt exists as to:

- (1) the constitutionality of the tax under the Constitution of the State of Indiana;
- (2) the right to impose the tax;
- (3) the correct amount of tax due;
- (4) the collectibility of the tax; or
- (5) whether the taxpayer is a resident or nonresident of Indiana.

(b) After an ~~original tax~~ appeal is filed, ~~with the tax court under IC 33-3-5~~, and notwithstanding IC 4-6-2-11, the commissioner may settle a tax liability dispute with an amount in contention of twenty-five thousand dollars (\$25,000) or less.

(c) Notwithstanding IC 6-8.1-7-1(a), the terms of a settlement under subsection (b) are available for public inspection.

SECTION 28. IC 6-8.1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department. The amount of the assessment is considered a tax payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. The department shall send the person a notice of the proposed assessment through the United States mail.

(b) If the person has a surety bond guaranteeing payment of the tax for which the proposed assessment is made, the department shall furnish a copy of the proposed assessment to the surety. The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

(c) The notice shall state that the person has sixty (60) days from the date the notice is mailed to pay the assessment or to file a written protest. If the person files a protest and requires a hearing on the protest, the department shall:

- (1) set the hearing at the department's earliest convenient time;

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1 and

2 (2) notify the person by United States mail of the time, date, and
3 location of the hearing.

4 (d) The department may hold the hearing at the location of its choice
5 within Indiana if that location complies with IC 6-8.1-3-8.5.

6 (e) No later than sixty (60) days after conducting a hearing on a
7 protest, or after making a decision on a protest when no hearing is
8 requested, the department shall issue a letter of findings and shall send
9 a copy of the letter through the United States mail to the person who
10 filed the protest and to the person's surety, if the surety was notified of
11 the proposed assessment under subsection (a). The department may
12 continue the hearing until a later date if the taxpayer presents
13 additional information at the hearing or the taxpayer requests an
14 opportunity to present additional information after the hearing.

15 (f) A person that disagrees with a decision in a letter of finding may
16 request a rehearing not more than thirty (30) days after the date on
17 which the letter of finding is issued by the department. The department
18 shall consider the request and may grant the rehearing if the department
19 reasonably believes that a rehearing would be in the best interests of
20 the taxpayer and the state.

21 (g) If a person disagrees with a decision in a letter of finding, the
22 person may appeal the decision **before January 1, 2009**, to the tax
23 court **and after December 31, 2008, with the circuit or superior**
24 **court of the county in which the person resides or in which the**
25 **person has the person's primary business location. If, after**
26 **December 31, 2008, the person does not reside or have a business**
27 **location in Indiana, the person must appeal to the circuit or**
28 **superior court of Marion County. However, before January 1,**
29 **2009, the tax court and after December 31, 2008, a circuit or**
30 **superior court does not have jurisdiction to hear an appeal that is filed**
31 **more than one hundred eighty (180) days after the date on which the**
32 **letter of finding is issued by the department.**

33 (h) **Before January 1, 2009, the tax court and after December 31,**
34 **2008, the appropriate circuit or superior court** shall hear an appeal
35 under subsection (g) de novo and without a jury. **Before January 1,**
36 **2009, the tax court and after December 31, 2008, the appropriate**
37 **circuit or superior court may do the following:**

38 (1) Uphold or deny any part of the assessment that is appealed.

39 (2) Assess the court costs in a manner that the court believes to be
40 equitable.

41 (3) Enjoin the collection of a listed tax, **before January 1, 2009,**
42 **under IC 33-3-5-11 and after December 31, 2008, under**

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1 **IC 6-8.1-8-14.**

2 (i) The department shall demand payment, as provided in
3 IC 6-8.1-8-2(a), of any part of the proposed tax assessment, interest,
4 and penalties that it finds owing because:

5 (1) the person failed to properly respond within the sixty (60) day
6 period;

7 (2) the person requested a hearing but failed to appear at that
8 hearing; or

9 (3) after consideration of the evidence presented in the protest or
10 hearing, the department finds that the person still owes tax.

11 (j) The department shall make the demand for payment in the
12 manner provided in IC 6-8.1-8-2.

13 (k) Subsection (a) does not apply to a motor carrier fuel tax return.

14 SECTION 29. IC 6-8.1-8-6 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) If a person does
16 not pay a tax payment within sixty (60) days of the date that the
17 particular payment is due, the department may have a receiver
18 appointed by the circuit or superior court of the county in which the
19 taxpayer resides or is domiciled. Upon motion by the department for a
20 receiver, the court shall appoint a receiver if the court finds that one of
21 the listed taxes is due and has not been paid within sixty (60) days of
22 its due date. A receiver appointed under this section may, in place of
23 the taxpayer:

24 (1) bring and defend any action;

25 (2) take possession of all property;

26 (3) receive all funds;

27 (4) collect any debts owed to the taxpayer; and

28 (5) perform all other functions and duties prescribed for receivers
29 under Indiana law or under special authority granted by the court.

30 (b) Within ten (10) days after the court order granting or refusing a
31 receiver's appointment, either party may appeal the order **before**
32 **January 1, 2009**, to the tax court **and after December 31, 2008, the**
33 **court of appeals**. However, if the taxpayer makes the appeal, he must
34 furnish bond in an amount sufficient to cover the payment of any costs
35 or damages resulting from the appeal and to cover the amount of the
36 bond the receiver would be required to file. As long as the appeal is in
37 process, the receiver's powers are suspended.

38 SECTION 30. IC 6-8.1-8-14 IS ADDED TO THE INDIANA CODE
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
40 1, 2001]: **Sec. 14. (a) This section applies to petitions of an**
41 **injunction filed after December 31, 2008.**

42 **(b) A taxpayer who wishes to enjoin the collection of a listed tax**

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pending the appeal must file a petition with the Marion circuit court for a listed tax other than a tax imposed under IC 6-4.1 and to the court of appeals for a tax imposed under IC 6-4.1 to enjoin the collection of the tax. The petition must set forth a summary of:

- (1) the issues that the petitioner will raise in the appeal; and
- (2) the equitable considerations for which the court should order the collection of the tax to be enjoined.

(c) After a hearing on the petition filed under subsection (b), the court may enjoin the collection of the tax pending the appeal, if the court finds that:

- (1) the issues raised by the appeal are substantial;
- (2) the petitioner has a reasonable opportunity to prevail in the appeal; and
- (3) the equitable considerations favoring the enjoining of the collection of the tax outweigh the state's interests in collecting the tax pending the appeal.

SECTION 31. IC 6-8.1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f) and (g), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

- (1) The due date of the return.
- (2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

(b) When the department receives a claim for refund, the department shall consider the claim for refund and may hold a hearing on the claim for refund to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision.

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(c) If the person disagrees with any part of the department's decision, he may appeal the decision, regardless of whether or not he protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal **before January 1, 2009**, with the tax court ~~The tax~~ **and after December 31, 2008, with the circuit or superior court of the county in which the person resides or in which the person has the person's primary business location. If, after December 31, 2008, the person does not reside or have a business location in Indiana, the person must appeal to the circuit or superior court of Marion County.** A court does not have jurisdiction to hear a refund appeal suit, if:

- (1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department;
- (2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or
- (3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

After, December 31, 2008, a copy of the complaint and summons from an appeal filed under this subsection must be served on the department and on the attorney general. The state of Indiana consents to the lawsuit.

(d) The ~~tax~~ court **in which the appeal is properly filed** shall hear the appeal de novo and without a jury, and after the hearing may order or deny any part of the appealed refund. The court may assess the court costs in any manner that it feels is equitable. The court may enjoin the collection of any of the listed taxes **before January 1, 2009**, under IC 33-3-5-11 **and after December 31, 2008, under IC 6-8.1-8-14.** The court may also allow a refund of taxes, interest, and penalties that have been paid to and collected by the department.

(e) With respect to the motor vehicle excise tax, this section applies only to penalties and interest paid on assessments of the motor vehicle excise tax. Any other overpayment of the motor vehicle excise tax is subject to IC 6-6-5.

(f) If a taxpayer's federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

- (1) the date determined under subsection (a); or
- (2) the date that is six (6) months after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

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(g) If an agreement to extend the assessment time period is entered into under IC 6-8.1-5-2(e), the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

SECTION 32. IC 6-8.1-9-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.2. Notwithstanding section 1(d) of this chapter, if a taxpayer prevails in a complaint that is placed:

(1) **before January 1, 2009**, on the small claims docket under IC 33-3-5-12, the tax court shall order the refund of the taxpayer's filing fee under ~~IC 33-3-5-16~~; **IC 33-3-5-20**; and

(2) **after December 31, 2008, on the small claims docket under IC 33-4-3-7, the court in which the claim is pending shall order the reimbursement of the taxpayer's filing fee under IC 33-19-5-5**;

from the state general fund.

SECTION 33. IC 33-2.1-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) **This section does not apply to a vacancy on the tax court that occurs after July 1, 2008.**

(b) When a vacancy occurs in the supreme court, the court of appeals, or the tax court, the clerk of the court shall promptly notify the chairman of the commission of such vacancy. The chairman shall call a meeting of the commission within twenty (20) days following such notice. The commission shall submit its nominations of three (3) candidates for each vacancy and certify them to the governor as promptly as possible, and in any event not later than seventy (70) days from the time such vacancy occurs. When it is known that a vacancy will occur at a definite future date, but the vacancy has not yet occurred, the clerk shall notify the commission immediately thereof, and the commission may, within sixty (60) days of such notice of such vacancy, make its nominations and submit to the governor the names of three (3) persons nominated for such forthcoming vacancy.

SECTION 34. IC 33-3-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The tax court is a court of limited jurisdiction. The tax court has exclusive jurisdiction over any case that arises under the tax laws of this state and that is an initial appeal of a final determination made by

(1) the department of state revenue with respect to a listed tax (as defined in IC 6-8.1-1-1). ~~or~~

(2) ~~the state board of tax commissioners.~~

(b) The tax court also has any other jurisdiction conferred by statute.

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(c) The cases over which the tax court has exclusive original jurisdiction are referred to as original tax appeals in this chapter. The tax court does not have jurisdiction over a case unless:

- (1) the case is an original tax appeal; or
- (2) the tax court has otherwise been specifically assigned jurisdiction by statute.

(d) A taxpayer that appeals to the tax court shall, at the time the appeal is filed, elect to have all evidentiary hearings in the appeal conducted in one (1) of the following counties:

- (1) Allen County.
- (2) Jefferson County.
- (3) Lake County.
- (4) Marion County.
- (5) St. Joseph County.
- (6) Vanderburgh County.
- (7) Vigo County.

(e) A taxpayer that is an appellee in an appeal to the tax court shall, within thirty (30) days after it receives notice of the appeal, elect to have all evidentiary hearings in the appeal conducted in a county listed in subsection (d).

(f) The tax court does not have jurisdiction over a case that is an appeal from a final determination made by the department of state revenue under IC 4-32 other than a final determination concerning the gaming card excise tax established under IC 4-32-15.

SECTION 35. IC 33-3-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) The ~~initial~~ term of office of a person appointed to serve as the judge of the tax court begins on the effective date of that appointment and ends on the **earlier of the following:**

- (1) **The** date of the next general election that follows the expiration of two (2) years from the effective date of that appointment, **if the next general election is before November 4, 2008.**

- (2) **December 31, 2008, if subdivision (1) does not apply.**

(b) The tax court judge may be approved or rejected for an additional term ~~or terms~~ in the same manner as are the justices of the supreme court under IC 33-2.1-2. **However, the term of a tax court judge approved or rejected for an additional term expires December 31, 2008.**

SECTION 36. IC 33-3-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) Except as otherwise provided in this section, a vacancy on the tax court shall be



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1 filled as provided in IC 33-2.1-4.

2 (b) Before the expiration of the sixty (60) day period prescribed by
3 IC 33-2.1-4-10, the governor shall:

4 (1) appoint to the tax court one (1) of the three (3) persons
5 initially nominated by the judicial nominating commission; or

6 (2) reject all the persons initially nominated by the commission.

7 If the governor does reject all the nominees, the governor shall notify
8 the chairman of the judicial nominating commission of that action. The
9 commission shall then submit the nominations of three (3) new
10 candidates to the governor not later than forty (40) days after receipt of
11 the notice. The governor shall fill the vacancy on the tax court by
12 appointing one (1) of the new candidates within sixty (60) days from
13 the date the names of the new candidates are submitted by the
14 commission.

15 **(c) If a vacancy occurs on the tax court after June 30, 2008, the**
16 **governor shall appoint a person to fill the vacancy in the same**
17 **manner as the governor fills a vacancy on a circuit court.**

18 SECTION 37. IC 33-3-5-11 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) A taxpayer who
20 wishes to initiate an original tax appeal must file a petition in the tax
21 court to set aside the final determination of the department of state
22 revenue. ~~or the state board of tax commissioners.~~ If a taxpayer fails to
23 comply with any statutory requirement for the initiation of an original
24 tax appeal, the tax court does not have jurisdiction to hear the appeal.

25 (b) A taxpayer who wishes to enjoin the collection of a tax pending
26 the original tax appeal must file a petition with the tax court to enjoin
27 the collection of the tax. The petition must set forth a summary of:

28 (1) the issues that the petitioner will raise in the original tax
29 appeal; and

30 (2) the equitable considerations for which the tax court should
31 order the collection of the tax to be enjoined.

32 (c) After a hearing on the petition filed under subsection (b), the tax
33 court may enjoin the collection of the tax pending the original tax
34 appeal, if the tax court finds that:

35 (1) the issues raised by the original tax appeal are substantial;

36 (2) the petitioner has a reasonable opportunity to prevail in the
37 original tax appeal; and

38 (3) the equitable considerations favoring the enjoining of the
39 collection of the tax outweigh the state's interests in collecting the
40 tax pending the original tax appeal.

41 (d) This section does not apply to a final determination of the
42 department of state revenue under IC 4-32 other than a final

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determination concerning the gaming card excise tax established under IC 4-32-15.

SECTION 38. IC 33-3-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) The tax court shall establish a small claims docket for processing

(+) claims for refunds from the department of state revenue that do not exceed five thousand dollars (\$5,000) for any year. ~~and~~

(2) ~~appeals of final determinations of assessed value made by the state board of tax commissioners that do not exceed forty-five thousand dollars (\$45,000).~~

(b) The tax court shall adopt rules and procedures under which cases on the small claims docket are heard and decided.

SECTION 39. IC 33-3-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. With respect to determinations as to whether any issues or evidence may be heard in an original tax appeal that was not heard in the administrative hearing or proceeding, the tax court is governed by the law that applied before the creation of the tax court to appeals to trial courts of final determinations made by the department of state revenue. ~~and the state board of tax commissioners.~~

SECTION 40. IC 33-3-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) The tax court shall render its decisions in writing.

~~(b) A decision of the tax court remanding the matter of assessment of property under IC 6-1.1-15-8 to the state board of tax commissioners shall specify the issues on remand on which the state board of tax commissioners is to act.~~

~~(c)~~ (b) The decisions of the tax court may be appealed directly to the supreme court.

SECTION 41. IC 33-3-5-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 21. This chapter expires December 31, 2008.**

SECTION 42. IC 33-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. This chapter applies to each circuit court for which:

(1) this article provides a standard small claims and misdemeanor division; ~~or~~

(2) **IC 33-5-2-5.5 provides a small claims docket.**

SECTION 43. IC 33-4-3-7, AS AMENDED BY P.L.180-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. The small claims docket has jurisdiction over the following:



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(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three thousand dollars (\$3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three thousand dollars (\$3,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three thousand dollars (\$3,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-7-9.

(4) After December 31, 2008, claims for refunds from the department of state revenue that do not exceed five thousand dollars (\$5,000) for any year.

SECTION 44. IC 33-5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. This chapter applies to each superior court for which:

(1) this article provides a standard small claims and misdemeanor division; **or**

(2) section 2.5 of this chapter provides a small claims docket.

SECTION 45. IC 33-5-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 2.5. After December 31, 2008, each superior court, including a court established under IC 33-5.1, has a small claims docket with jurisdiction over claims for refunds from the department of state revenue that do not exceed five thousand dollars (\$5,000) for any year.**

SECTION 46. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three thousand dollars (\$3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three thousand dollars (\$3,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three thousand dollars (\$3,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-7-9.

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(4) After December 31, 2008, claims for refunds from the department of state revenue that do not exceed five thousand dollars (\$5,000) for any year.

(b) This subsection applies to a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000). The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-7-9.

SECTION 47. IC 33-5-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5.5. After December 31, 2008, each circuit court has a small claims docket with jurisdiction over claims for refunds from the department of state revenue that do not exceed five thousand dollars (\$5,000) for any year.**

SECTION 48. IC 33-19-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) **Except as provided in section 6(a)(4) of this chapter,** for each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars (\$35).

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect a document fee if it is required under IC 33-19-6.

(c) If a taxpayer prevails in a complaint that is placed on the small claims docket under IC 33-4-3-7 or IC 33-5-2-4, the court shall order the reimbursement of the taxpayer's filing fee under section 6(a)(4) of this chapter from the state general fund. The auditor of state shall pay a warrant that is ordered under this subsection.

SECTION 49. IC 33-19-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) Except as provided under subsection (c), for: ~~each action filed under:~~

(1) each action filed under IC 6-4.1-5 (determination of

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inheritance tax);

(2) **each action filed under IC 29 (probate); and**

(3) **each action filed under IC 30 (trusts and fiduciaries); and**

(4) **after December 31, 2008, each initial appeal of a final determination made by the department of state revenue with respect to a listed tax (as defined in IC 6-8.1-1-1);**

the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120).

(b) In addition to the probate costs fee collected under this section, the clerk shall collect from the party filing the action a document fee if it is required under IC 33-19-6.

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

(1) Petition to open a safety deposit box.

(2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.

(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 50. [EFFECTIVE JULY 1, 2001] (a) **An injunction issued by the tax court:**

(1) **before July 1, 2001, in an original tax appeal from a determination of the state board of tax commissioners shall be treated after June 30, 2001, as if it were issued under IC 6-1.1-36-17; and**

(2) **before January 1, 2009, in a determination concerning a listed tax (as defined in IC 6-8.1-1-1) or a tax imposed under IC 6-4.1 shall be treated after December 31, 2008, as if it were issued under IC 6-8.1-8-14.**

(b) **On July 1, 2001, all actions pending before the tax court in original tax appeals from a determination of the state board of tax commissioners and all related papers and records shall be transferred to the court of appeals. The actions transferred under this subsection shall be treated as if the actions had been originally filed in the court of appeals. However, failure to comply with purely technical requirements applicable to other appeals before the court of appeals shall not be grounds for dismissal or remand of the appeal.**

(c) **On January 1, 2009, all actions pending before the tax court that are not:**

(1) **described in subsection (b); and**

(2) **related to a tax imposed under IC 6-4.1;**



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1 and all related papers and records shall be transferred to the
2 appropriate circuit or superior court as determined under IC 6-8.1.
3 The department of state revenue shall assist the tax court and the
4 appropriate circuit and superior courts with identifying where to
5 transfer each action. The actions transferred under this subsection
6 shall be treated as if the actions had been originally filed in the
7 circuit or superior court. However, failure to comply with purely
8 technical requirements applicable to other appeals from an agency
9 decision before the circuit or superior court shall not be grounds
10 for dismissal or remand of the appeal.

11 (d) On January 1, 2009, all actions pending before the tax court
12 that are related to a tax imposed under IC 6-4.1 and all related
13 papers and records shall be transferred to the court of appeals.
14 The actions transferred under this subsection shall be treated as if
15 the actions had been originally filed in the court of appeals.
16 However, failure to comply with purely technical requirements
17 applicable to other appeals before the court of appeals shall not be
18 grounds for dismissal or remand of the appeal.

19 (e) IC 6-1.1-15-8, as effective June 30, 2001, applies to the
20 remand of an assessment of any tangible property that is vacated,
21 set aside, or adjudged null and void under the finding, decision, or
22 judgment of the tax court before July 1, 2001. However, any
23 additional petition or appeal in the proceeding after June 30, 2001,
24 shall be made to the court of appeals.

25 (f) The legislative council, with the assistance of the legislative
26 services agency, shall provide for the introduction of legislation in
27 the 2009 session of the general assembly to remove obsolete
28 references to the tax court from the Indiana Code.

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